



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,945	11/25/2003	Leonid Bravinski	92953-4	5884
22463 SMART & BIGGAR 438 UNIVERSITY AVENUE SUITE 1500, BOX 111 TORONTO, ON M5G 2K8 CANADA	7590 05/12/2010			
EXAMINER				
SAFAVI, MICHAEL				
ART UNIT		PAPER NUMBER		
3637				
MAIL DATE		DELIVERY MODE		
05/12/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/721,945

Applicant(s)

BRAVINSKI, LEONID

Examiner

MICHAEL SAFAVI

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 30,70,80,81,84-88,99-105,108,109,131 and 133 is/are allowed.
- 6) ☒ Claim(s) 23-25,69,83,89-98,104,105,107,111,120 and 122-126 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continuation of Disposition of Claims: Claims pending in the application are 23-25,30,69,70,80,81,83-105,107-109,111,120,122-126,130,131 and 133.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 15, 2010 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 89-98, 24, 23, 25, 111, 69, 83, 104, 105, 107, 120, 122, 123, and 124-126 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 89, line 13, to what, does "first and second panel members" refer? Are these the same first and second panel members introduced within line 3 of claim 89?

Claim 24, line 2, "said panel member" lacks antecedent basis within the claim. It is therefore, not clear as to what "said panel member" refers.

Claim 124, line 4, to which transverse tie member does "said transverse tie member" refer?

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 111, 69, 83, 104, 105, 107, 120, and 122-126, are rejected under 35 U.S.C. 103(a) as being unpatentable over Cretti 5,809,725 in view of Long, Sr. et al. 6,276,104.

Cretti discloses, Fig. 1 for example, a panel unit for use as part of a concrete form for a concrete wall, said panel unit comprising: a removable first panel member 6 made from a rigid foamed plastic polystyrene having an inner surface and an opposed outer surface, said first panel member having a first depth and said first depth being sufficient such that said first panel member can retain unhardened concrete, said first panel member having an aperture; a non-removable second panel member 5 made from a foamed plastic polystyrene and spaced apart in a transverse direction to define a form space between said first panel member and said second panel member, said inner surface of said first panel member facing an inner surface of said second panel member, said second panel member having a second depth that is greater than said first depth, (col. 8, lines 6-9), and is sufficient to provide thermal insulation; a spacer 1

generally being transversely positioned between said first and second panel members, said spacer assisting in holding said first and second panel members in compression and in generally transversely spaced relation to each other, said spacer comprising a transverse tie 4 member and first and second connectors 2, 3; said transverse tie member having a first end and an opposite second end, said first end being adapted for securing said transverse tie member to a first connector mounted through said aperture of said first panel member in such manner that said first panel member is compressed; said first connector being adapted to be removable from the tie member after said form space has been filled with unhardened concrete and said concrete has hardened; said first panel member being adapted to be compressed proximate said aperture while maintaining the geometrical stability of said panel member.

Cretti does not appear to specifically disclose "said inner surface of said first panel member having non-adhesive properties in relation to hardened concrete held in said form space and said inner surface being laminated with a suitable plastic film to strengthen said first panel member" or that the first panel is adapted to be compressed "due at least in part to said lamination of said inner surface of said first panel member with said plastic film of said inner surface of said first panel member."

However, Long, Sr. et al. discloses application of a polypropylene layer upon both surfaces of a foamed plastic panel member. Therefore, to have further provided a polypropylene film along one or both sides of the Boeshart form panel 6, thus serving to encase the panel in a protective layer as well as allow for interchangeability between

sides of each form panel, would have constituted an obvious to one having ordinary skill in the art at the time the invention was made as taught by Long, Sr. et al.

As for **claim 111**, Cretti discloses a spacer 1 generally being transversely positioned between said first and second panel members, said spacer holding said first and second panel members in generally transversely spaced relation to each other, said spacer comprising: a transverse tie member 4 having a first end and an opposite second end, said first end being adapted for securing said transverse tie member to a first connector mounted to said first panel member and said second end being adapted for securing said transverse tie member to a second connector mortared to said second panel member; first and second rod members 20 interconnected to and oriented generally orthogonally to, said transverse tie member.

Claims 23-25 and 89-98 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Claims 30, 70, 80, 81, 84-88, 99-105, 108, 109, 131 and 133 are allowed.

Response to Arguments

Applicant's arguments filed March 15, 2010 have been fully considered but they are not persuasive. Applicant's arguments from page 28 to the middle of page 30 of the response is not found persuasive at least as may be directed to those claims rejected under Cretti as modified. The claims reciting language that positively sets forth "compression" do not appear to have been rejected over the prior art of record.

Otherwise, any language directed to intended effect or desired arrangement does not serve to read over the applied prior art to Cretti as modified.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL SAFAVI whose telephone number is (571)272-7046. The examiner can normally be reached on Mon.-Fri., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darnell Jayne can be reached on (571) 272-7723. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Safavi/
Primary Examiner, Art Unit 3637

M. Safavi
May 05, 2010